

Exhibit 5

In The Matter Of:

CHARLIE THORNTON

v.

FEDEX GROUND PACKAGE SYSTEM

NO. 2:05-CV-00656-DRB

STAN TROTT
April 12, 2006



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CHARLIE THORNTON
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT
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Page 1

Page 3

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CIVIL ACTION NO: 2:05-CV-00656-DRB

CHARLIE THORNTON,
Plaintiff,
vs.
FEDEX GROUND PACKAGE SYSTEM, INC.,
Defendant.

DEPOSITION
OF
STAN TROTT
12TH DAY OF APRIL, 2006

TAKEN BEFORE: Gary N. Morgan
Registered Professional
Reporter and Notary Public

A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. K. Anderson Nelms
Attorney at Law
Law Offices of Jay Lewis, LLC
847 South McDonough Street
P. O. Box 5059
Montgomery, Alabama 36104

FOR THE DEFENDANT:

Mr. Robert K. Spotswood
Attorney at Law
Law Offices of Robert K. Spotswood
Suite 940
2100 Third Avenue North
Birmingham, Alabama 35203

OTHERS PRESENT:
Mr. Charlie Thornton

Page 2

Page 4

1 S T I P U L A T I O N

2 IT IS STIPULATED AND AGREED,
3 by and between the parties, through their
4 respective counsel, that the deposition
5 of STAN TROTT may be taken before Gary N.
6 Morgan, Commissioner, Registered
7 Professional Reporter and Notary Public,
8 State at Large;

9 That the signature to and
10 reading of the deposition by the witness
11 is waived, the deposition to have the
12 same force and effect as if full
13 compliance had been had with all laws and
14 rules of Court relating to the taking of
15 depositions;

16 That it shall not be necessary
17 for any objections to be made by counsel
18 to any questions, except as to form or
19 leading questions, and that counsel for
20 the parties may make objections and
21 assign grounds at the time of trial, or
22 at the time said deposition is offered in
23 evidence, or prior thereto.

1 I N D E X

PAGE:

3 EXAMINATION BY MR. NELMS 6
4 EXAMINATION BY MR. SPOTSWOOD 68

CHARLIE THORNTON
FEDEX GROUND PACKAGE SYSTEM

Page 5

Page 7

I, Gary N. Morgan, a Registered Professional Reporter of Birmingham, Alabama, and a Notary Public for the State of Alabama at Large, acting as Commissioner, certify that on this date, as provided by the Federal Rules of Civil Procedure of the United States District Court, and the foregoing stipulation of counsel, there came before me at 847 South McDonough Street, Montgomery, Alabama, on the 12th day of April, 2006, commencing at 10:09 a.m., STAN TROTT, witness in the above cause, for oral examination, whereupon the following proceedings were had:

STAN TROTT,
being first duly sworn, was examined and testified as follows:

MR. SPOTSWOOD: Andy, before we get started, I wanted to tell you that we are producing Mr. Trott as an agent

Q. Through the course of this deposition, and I promise you it's not going to be a long one, I may refer to FedEx because I don't work there. Generically, FedEx is Federal Express to me.

A. Right.

Q. If I do that, you may correct me, you're welcome to, or please understand that I'm referring specifically to the Defendant in this matter, which, again, is FedEx Ground Package Systems, Inc., and I will ask you a series of questions. If for any reason you don't understand my question, please just say I don't understand, and then, you can tell me why you don't understand it or what part of it you don't understand, and I'll rephrase it, if you wish. Sometimes I ask very bad questions.

So, I completely understand why you wouldn't understand, and

Page 6

Page 8

and representative of FedEx Ground Package Systems. I do claim an attorney-client privilege with respect to him, and he is obviously offered here today with respect to the subject matters that I know are at issue and about which he has some firsthand knowledge.

EXAMINATION BY MR. NELMS:

Q. Okay. Mr. Thornton, have you ever been deposed before?

A. Yes.

Q. Okay. What was it in reference to?

A. It was an employment issue about 20 years ago, I'm guessing, with Roadway Express.

Q. Okay. My name is Andy Nelms. I represent Charlie Thornton, who is the Plaintiff in this matter, and as you know, we have a lawsuit pending against FedEx Ground Package System, Inc.

A. Yes.

sometimes I have to ask questions in that legalese that we use or proffered in a certain way so that it makes sense on paper. Because everything we say today Gary is taking down, and it's going to show up on paper; and you're not here, and I won't be there when it's read by us or some third party.

So, things like hand motions and predicates that set up the question and things like that may not be completely apparent and sometimes, if you say huh-uh or uh-uh, that won't show up as a positive response or a negative response on paper. So, let's do the best we can to say yes or no or express it completely, whatever the answer may be.

Also, if I'm speaking and then you're speaking, which we do all the time, in common conversations, it's impossible for Gary to get both of what we're saying at the same time on paper.

A. Right.

Page 9

Page 11

1 Q. And it reads terribly. And I
2 usually make a pretty good record, but,
3 you know, everybody's prone to their
4 screw-ups.

5 Is there any reason why you
6 would have trouble giving testimony today
7 in this deposition?

8 A. No.

9 Q. Any physical reason, any
10 medications, anything like that?

11 A. No. Other than time factor,
12 you know, a year and a half ago or --

13 Q. Oh, okay.

14 A. I don't want to be
15 speculative. That sort of depends on
16 what the question is.

17 Q. Yes, sir. Well, don't be.
18 Just -- if you remember, you remember it.

19 A. Right.

20 Q. If you don't, you don't. And
21 I understand that you're retired now.

22 A. Right.

23 Q. Okay. When did you retire?

1 there, to -- quite frankly, when I'm
2 looking east, maybe Union Springs, but
3 not -- not Auburn or Tuskegee or
4 anything -- oh, Tuskegee.

5 Q. Okay. And how long did you
6 hold that position?

7 A. In Montgomery, two years.

8 Q. Okay.

9 A. I was a senior manager in
10 Marietta. I actually came in from FedEx
11 Logistics in 2001 and was brought in
12 as -- to become a managing director.
13 I've been a managing director for FedEx
14 Logistics and for Roadway. I had almost
15 28, 29 years in the industry, and they
16 brought me into Marietta to run a -- a
17 large facility there which, quite frankly
18 at that time, I was -- I -- I had told
19 them I really didn't want to go back up
20 the ladder. So, they were kind of just
21 preparing me for retirement.

22 Q. I understand. I understand.
23 Now, you're saying FedEx.

Page 10

Page 12

1 A. March of 2005.

2 Q. Okay. And what was your last
3 position with FedEx?

4 A. Senior manager of FedEx Ground
5 here in Montgomery.

6 Q. Okay. And I'll assume that
7 that covers more than just the City
8 of Montgomery. That's a geographical
9 area?

10 A. Yes.

11 Q. Okay. What is encompassed in
12 that geographical area?

13 A. Approximately, if you looked
14 at it, it's about a 50-mile radius all
15 the way around the City of Montgomery,
16 give or take.

17 Q. Okay.

18 A. Anywhere as far north as --
19 well, just below Clanton to Selma and
20 Demopolis -- or not even Demopolis but
21 Selma and that area to --

22 Q. Greenville?

23 A. -- Fort Deposit, right about

1 A. FedEx Ground.

2 Q. All right. So, were you
3 solely employed by this Defendant, FedEx
4 Ground Package Systems, Inc.?

5 A. From 2001, yes, up to 2005.

6 Q. Okay. And, so I understand,
7 you were in Montgomery from 2001 until
8 the day you retired?

9 A. From 2002-ish.

10 Q. So, the entire time that you
11 worked in Montgomery, you worked for this
12 Defendant --

13 A. Yes.

14 Q. -- FedEx Ground?

15 A. Yes.

16 Q. And tell me just generally
17 what kind of job responsibilities and
18 duties that you had during that last
19 period of time that you were in
20 Montgomery.

21 A. As a senior manager in most
22 all FedEx Ground facilities, you oversee
23 the day-to-day operations from what we

Page 13

1 call the preload, or packages, coming in
 2 to the loading of the packages and, then,
 3 the drivers going out; any type of
 4 customer service issues; periodically
 5 going out with sales to make sales calls;
 6 but mainly, pretty much a hand-on --
 7 hands-on operation-type of position.

8 Small terminal like

9 Montgomery, two to three direct reports,
 10 fairly small operation with -- with seven
 11 or eight package handlers. So, I mean,
 12 you -- as a senior manager, you're pretty
 13 well over running the -- the entire
 14 facility operationally. Now, in -- in
 15 some particular instances, you have an
 16 operations manager for the Home Delivery
 17 side, and that, where it gets a little
 18 confusing, is Home Delivery is a newly
 19 formed entity of -- of FedEx Ground,
 20 which is now about, maybe, three to four
 21 years old.

22 Q. All right.

23 A. That is -- Home Delivery is.

Page 15

1 there a -- was there a Ground delivery
 2 system in place at the Montgomery branch?
 3 A. There was a Ground delivery.
 4 There was not -- the Home Delivery
 5 operation itself was within the
 6 Montgomery facility. On or about -- and
 7 I think it was even before Charlie. I'm
 8 going to say somewhere around late 2004
 9 the ops manager for Home Delivery was
 10 promoted out of there, and I was kind of
 11 given the responsibility to oversee both
 12 sides and trying to just keep the
 13 operation running until they could get a
 14 full-time Home Delivery guy into the
 15 Montgomery operation.

16 Q. Okay. When you say "Home
 17 Delivery" --

18 A. But technically, yes, I was
 19 over both sides during the time in
 20 question.

21 Q. Okay. When you say "Home
 22 Delivery guy" --

23 A. Yes.

Page 14

1 Q. Home Delivery, you say, is
 2 three to four years old from today's
 3 date?

4 A. Don't hold me to that. Maybe
 5 2000, 2001, they formed Home Delivery.
 6 So, yes, somewhere, give or take, four or
 7 five years.

8 Q. Okay.

9 A. And they would have a -- a --
 10 a -- a operations person solely trained
 11 for Home Delivery within an operation
 12 like Montgomery or -- or -- or a lot of
 13 the other operations. They do have some
 14 sole Home Delivery operations with no
 15 Ground mixed in there, but I just wanted
 16 to make sure you knew, in many instances,
 17 the Ground manager may not oversee the
 18 Home Delivery operation if there's a --
 19 a -- an ops manager there for Home
 20 Delivery.

21 Q. Okay. During the last year,
 22 let's say that you were at FedEx here in
 23 Montgomery, were you in charge of -- was

Page 16

1 Q. -- is it just --

2 A. There was an ops manager that
 3 used to be there that really ran that
 4 side, and he didn't -- he had a dotted
 5 line to me, but he had a direct line up
 6 to the actual regional manager for Home
 7 Delivery.

8 Q. Okay.

9 A. This can get somewhat
 10 confusing.

11 Q. I think I got it. When you
 12 say "Home Delivery guy," though, you're
 13 just referring to the operations manager?

14 A. Correct.

15 Q. Okay. How many trucks when
 16 you retired were dedicated to sole Home
 17 Delivery purpose?

18 A. I think at the time there's
 19 about seven to eight contracts and about
 20 ten trucks.

21 Q. Okay. And at the time that
 22 you retired, you were basically in charge
 23 of that area of Home Delivery for the

Page 17

Page 19

1 Montgomery operation?

2 A. Yeah.

3 Q. Okay. You hesitated there.

4 A. Well, that -- the -- the --
5 the previous Home Delivery guy, Joe
6 McConnell, who had been promoted up to
7 Birmingham, would come back every two or
8 three weeks, probably not enough, to kind
9 of make sure the Home Delivery side
10 was -- was somewhat running. We went --
11 we had just gone through what we call
12 peak, which is, you know, from really
13 about October all the way up through
14 Christmas, where your -- your volumes
15 spike 30 to 40 percent. But when I said
16 that, it's because Home Delivery tried to
17 make sure that Joe McConnell and/or --
18 and I don't even know Kent's last name,
19 had been -- was -- was eventually
20 assigned to come in and start trying to
21 run that side of the operation and --
22 and manage it.

23 So, yes, I was over it, but it

1 yesterday, when I was over going what
2 happened on the -- on that side, she
3 actually drove and delivered up to 120
4 stops up until the day she delivered, but
5 he had to give up that route. And it was
6 the -- he oversaw or he had the -- the
7 Troy contract, and it was actually two
8 trucks that ran down in that area.

9 We had, in anticipation of
10 peak, hired what we call temp employees
11 to come in and try and take care of
12 the -- the additional packages and, so,
13 we had probably four or five, six temps
14 running at that time. So, we had put a
15 couple of temps -- sometimes we had to
16 use three or four to deliver down in the
17 Troy area.

18 Q. Who --

19 A. So, we had an open contract in
20 Troy going into the -- going into the
21 January time period.

22 Q. Okay. Were there any other
23 areas out of the Montgomery operation

Page 18

Page 20

1 was with some help from their point --
2 their side to try and keep the -- the
3 administrative side -- there is -- there
4 is specific training on the Home Delivery
5 side operationally, systemswise, somewhat
6 contractually, with their contract that,
7 quite frankly, I'd not been trained on.

8 Q. In the first quarter of
9 2005 --

A. Yes.

Q. -- was there a need in the
Montgomery operation for more Home
Delivery drivers?

A. Yes. But when I say "more,"
we had had, going into peak, and I'm
going to say it's probably October-ish, a
contractor who owned -- on the Ground
side who also owned a contract on the
Home Delivery side, and he had just --
his -- his -- his daughter was running
the truck, or driving the truck for him,
and she was pregnant.

And -- and I told the guys

1 that you had anticipated would need more
2 Ground Delivery drivers?

3 A. We were -- we were going
4 through some growth problems and some
5 performance problems with a -- with a
6 driver by the name of Derrick Pettaway.
7 He had lost his -- he had -- he had two
8 contracts, and in most instances, was
9 needing to run anywhere from three trucks
10 to four trucks a day. He had discharged
11 or fired his guy that drove for him, and
12 again, we were having to, due to lack of
13 area knowledge, give him anywhere from
14 three to four more additional people to
15 run his area.

16 So, there was some speculation
17 on my part, that quite frankly, due to
18 performance issues and/or just a guy
19 walking off the job, that we may have
20 some -- something come open in -- in that
21 area.

22 Q. Okay. Before I forget it,
23 let's cover something real quick. You

Page 21

Page 23

1 said that these Ground Delivery drivers
2 have contracts?

3 A. Yes.

4 Q. And the contracts are directly
5 with FedEx Ground Package?

6 A. You can have two different
7 contracts. You can have a FedEx Ground
8 contract, and if for some instance --
9 and -- and to a certain degree, we
10 encouraged it to allow them to grow
11 and -- and make more money. If -- if
12 contracts, due to attrition or growth,
13 became available on the Home Delivery
14 side, because those guys had been in the
15 business and -- and pretty well knew what
16 they were getting into, we would allow
17 them, if -- if they were doing -- doing a
18 good job on the Ground side, to -- to get
19 a Home Delivery contract. Different type
20 of equipment.

21 In some instances, may --
22 which was a perfect world, they would
23 have a Home Delivery driver running in

1 your packages off. You can, in some
2 instances, drive a little bit faster
3 versus Home Delivery; nobody's ever at
4 home and in, especially in the Home
5 Delivery side, due to lack of density,
6 some stops may be ten, 15 miles apart.

7 They had different
8 compensations for the Home Delivery side
9 versus the Ground side, and I -- you
10 know, I couldn't go into specifics, but
11 it was somewhat different in paper
12 package, paper stop, and -- and then,
13 some of it was very similar.

14 Q. When you say "paper stop," you
15 mean like the envelope?

16 A. They would get a certain
17 dollar per package to deliver, and if
18 they delivered, you know, five packages
19 at one stop, they would get paid per
20 package, but they would only get one stop
21 dollar amount.

22 Q. Okay. I got you. All right.
23 And you said there was a difference in

Page 22

Page 24

1 their same area. So, they could flex
2 packages back and forth to adjust the
3 volume, and -- and -- and serve
4 that area a lot better. But they would
5 sign two different contracts, a Ground
6 contract for your big step vans and a
7 Home Delivery contract for the little
8 delivery vans for Home Delivery, which is
9 supposed to be, theoretically, mostly
10 residential areas for Home Delivery.

11 Q. Describe for me how, under
12 either contract, the operator would be
13 compensated. I guess what I'm wanting to
14 know was it --

15 A. There is a different
16 compensation, and to be honest with you,
17 that comes out of Pittsburgh as to how
18 they engineer. It's different equipment.
19 It's -- it's -- they -- and on
20 the Ground side, because it's supposed to
21 be more density in the area, more
22 businesses with docks that you back up to
23 where it's a little bit easier to get

1 the equipment that they used.

2 A. Yeah. And, early on, for the
3 Home Delivery side, you could see little
4 Econoline vans running around versus the
5 big step vans.

6 Q. An Econoline van is just your
7 regular Ford van that you buy off the lot
8 at --

9 A. Yeah. You know, it might be a
10 15-passenger van, but it doesn't have the
11 seats in it. You know, they set them up
12 with the shelving and all of that stuff.
13 As that evolved over the years, they now
14 give them a smaller type of step van but
15 still one in which you can deliver a lot
16 more efficiently in a residential area.
17 It's not near as big and clunky and
18 probably gets better miles per gallon,
19 but it is a different type of equipment.

20 Q. Okay. Did you participate in
21 a program at the Holiday Inn in January
22 of 2005?

23 A. Apparently, I did, yes.

6 (Pages 21 to 24)

Page 25

1 Q. Do you not recall it?

2 A. No, I do recall it because I
3 remember when Char -- I mean, I remember
4 meeting with Charlie and his wife. There
5 was a lot of people. I can't remember
6 how many, but we had a pretty good
7 reception there. So, that we -- we
8 periodically put ads in the paper for
9 informational sessions because -- due to
10 growth, and I will say the good side of
11 FedEx, be it Ground or Home Delivery, is
12 in most instances, a -- they -- they're
13 in ten, 15, 30 percent growth modes all
14 the time. There's a constant need to
15 have potential contractors in the
16 pipeline so that we can keep up with the
17 growth.

18 Q. Okay.

19 A. So, we call them informational
20 sessions. They run an ad in the paper,
21 and in most instances, it can be for Home
22 Delivery and/or Ground or both.

23 Q. And what is discussed in the

1 and give a lot of these informational
2 sessions.

3 In many instances, they have a
4 standard type of presentation that they
5 give at these meetings. And -- and
6 usually, they'll send you a copy of it so
7 you have kind of a working knowledge just
8 in case you get caught having to give the
9 sessions or if somebody comes in and
10 walks -- walks in off the street and
11 you're to talk to them kind of about
12 what's going on in the business, you kind
13 of stick to that.

14 Q. "Stick to that," what?

15 A. That type of -- what the
16 presentation would be. You kind of give
17 the highlights of what they want you to
18 tell somebody about FedEx and FedEx
19 Ground.

20 Q. If you can recall, what kind
21 of qualifications would a potential
22 contractor need to have?

23 A. Well, I mean, obviously, when

Page 26

1 informational sessions?

2 A. Company history as far as
3 FedEx, the particulars on -- on
4 contract -- contractually, what you're
5 looking at, as far as -- they give a --
6 a -- a synopsis of -- of what potential
7 pay could be per stops, things like that.
8 They -- I think they actually have a
9 video, too, that they show to these guys
10 in some of the -- in some of the sessions
11 to just give them a -- an overall view of
12 what a -- a -- an independent contractor
13 within the realm of FedEx does.

14 Q. Okay. And is there any
15 discussion as to what it will take for a
16 potential contractor to qualify to become
17 a contractor?

18 A. I would think there is. You
19 know, in most instances, it -- if there's
20 not, and I -- and I'm pretty sure there
21 is an actual -- most all of your regional
22 HR people who -- who hire -- or we have
23 actual staff recruiters that go around

1 we look at -- at contractors or potential
2 contractors, we look at somebody who's --
3 we prefer to have somebody that has some
4 type of background in route experience
5 that would be similar to ours. And --
6 and, believe it or not, a guy who comes
7 in off the street, has been driving a --
8 a -- a tractor/trailer truck for 20
9 years, doesn't necessarily mean he's a
10 good match for FedEx because, you know,
11 he may just be backing trailers to docks.

12 And so, we try and look for
13 the type of guys who have a -- a good
14 experience of route -- running routes
15 and -- and know what it takes to run a
16 route, and in many instances, if it's
17 a -- like a Frito-Lay or something like
18 that, where it's a -- a sales route,
19 they're under time constraints to get
20 things done and stock -- you know, we
21 like that kind of background.

22 In the same respect, we also
23 try and look for people who have a good

Page 28

Page 29

1 business background. They run some type
 2 of business entity or have had their own
 3 trucks in the past. In some instances,
 4 we have outside contractors for other
 5 companies come in looking to see if they
 6 can put a couple of trucks in to run it.

7 And they -- you know, with
 8 that kind of experience and background of
 9 running their own business, it's a --
 10 it's a combination of driving and route
 11 experience, and -- and we would like to
 12 have somebody who's had some good
 13 business experience running their own
 14 business. Because they do -- I mean, you
 15 are literally running your own business
 16 as an independent contractor.

17 Q. What about the ability to
 18 qualify for a CDL, commercial driver's
 19 license?

20 A. Well, CDLs are not necessarily
 21 required for the step vans. If they've
 22 got one, that's fine. CDLs are -- are
 23 required for tractor/trailer. Now, the

Page 31

1 to whether these guys have had any
 2 accidents or tickets that they might not
 3 have reported.

4 Q. Would FedEx inquire as to the
 5 driving history of any potential
 6 contractor?

7 A. That's part of -- yes, that's
 8 part of the -- when you -- about two
 9 years ago, and -- and I'm trying to
 10 remember, but I -- I would say
 11 approximately two years ago, they -- they
 12 automated this, but whether it's
 13 automated or manually, part of when
 14 someone comes through the door that wants
 15 to apply for a contractor position, one
 16 of the forms they sign is the one we're
 17 talking about.

18 Automatedwise, if they came in
 19 and we took them to that step, where we
 20 let them fill out the application, it
 21 would -- there was a -- there's an
 22 outside firm that does all of our
 23 background checks for driving and for

Page 30

1 DOT requires you every year. Even for --
 2 for the Ground and the Home Delivery
 3 guys, you have to recertify every year
 4 saying how many tickets you have or have
 5 not gotten, whether it's on your personal
 6 vehicle or whatever. But CDLs are not
 7 necessarily a requirement for these --
 8 these pieces of equipment. That's set by
 9 the DOT.

10 Q. What do you mean when you say
 11 they need to "recertify every year?"

12 A. That's a DOT requirement.
 13 Every year, you have to -- you have to --
 14 you give them a form to fill out, and it
 15 says, I hereby certify that I have or
 16 have not, and you have to list any
 17 particular tickets or violations you
 18 might have had while driving, either in
 19 your personal vehicle and/or a FedEx van
 20 or whatever it may be. And that's -- you
 21 have to turn that in, put it in their
 22 file and send it up to Pittsburgh. So,
 23 they've got it, as a matter of record, as

Page 32

1 criminal history or whatever. So, now,
 2 it's automated, and they do it, and you
 3 get a call as to whether they passed or
 4 not.

5 But, yes, every person that
 6 comes through the door that applies for a
 7 job, we fill out one of those forms, and
 8 you have to send it up to have a -- have
 9 a background check done on them and their
 10 driving history.

11 Q. Is there any physical
 12 examination that needs to be performed?

13 A. They have to go through a DOT
 14 examination at each local facility if --
 15 you know, you don't really want to put a
 16 guy through those DOT physicals because
 17 they're not cheap, if you don't have some
 18 intention of -- of using him either as a
 19 temp or possible future employment.

20 Q. What about financial
 21 qualifications? Are there any
 22 requirements in that regard?

23 A. I don't think -- to be honest

Page 33

Page 35

1 with you, no. I -- I -- I'm not aware of
 2 any credit checks they may do. I mean,
 3 it's pretty well a given, that if they're
 4 going to go out and -- and purchase or
 5 lease a -- a van, that -- that whoever
 6 they're doing it through, will do some
 7 type of credit history on them to see if
 8 they qualify them to -- to do that. But,
 9 no, we don't necessarily do a -- a credit
 10 check of any type.

11 Q. What would happen if someone
 12 could not, for some financial reason,
 13 procure his own transportation truck for
 14 the contract? What steps would be taken
 15 by FedEx?

16 A. Well, obviously, he can't be a
 17 contractor if he can't have a van. There
 18 are some instances where they've gone
 19 out, and -- and this is hypothetical
 20 situations where they could go out and
 21 lease a van from another contractor who
 22 has, you know, additional equipment.

23 Q. Okay.

1 sessions myself, but I've been in on
 2 about 20 to 25 sessions where the
 3 recruiters did them. Sometimes they'll
 4 ask you to come as a senior manager to
 5 come and sit in and answer any questions.

6 But I do try and -- I don't
 7 necessarily paint a rosy picture, as far
 8 as the type of work they're getting into,
 9 because it's -- it's not fair to them,
 10 and it's really not fair to the company
 11 to -- to point out that -- or to paint
 12 this big rosy picture of lots of money
 13 and, you know, no pressure and no hours
 14 and, you know, you're off on weekends.
 15 And, so, I usually pretty well tell them
 16 up-front, be it a temp or be it a
 17 potential contractor, that, you know,
 18 this is a pretty tough job.

19 I mean, it's -- it's very
 20 demanding. If you want to go and grow
 21 and as a entrepreneurial -- make a lot of
 22 money, there's a potential there to add
 23 on trucks. All of those things are

Page 34

Page 36

1 A. But, no, not -- I mean, if you
 2 can't -- that's part of the business, and
 3 that's pretty well -- that -- at these
 4 informational sessions, there's a couple
 5 of things to get people to stand up and
 6 walk out at some time during the --
 7 during the session, and -- and that would
 8 be, no, you're not employees, you're an
 9 independent contractor, and you have to
 10 have the ability to -- to lease or
 11 purchase a -- a 35 to \$50,000 van.

12 Q. Okay. You said there were
 13 several things or other things that would
 14 make someone get up and walk out of an
 15 informational session. What would
 16 another one be?

17 A. Well, that -- that's the --
 18 the primary one. Some -- when they -- a
 19 lot of people, no matter what the ad may
 20 say, have some visions of employee-type
 21 versus independent contractor. You know,
 22 and -- and at some point in time, and
 23 I've done probably, maybe, four to five

1 potentiels with that kind of growth, but
 2 when it comes down to the actual work,
 3 day-to-day coming to work, it's -- it's
 4 pretty high pressure, and I don't really
 5 think twice about sometimes saying that
 6 to people.

7 Q. Do you specifically recall the
 8 informational session in early January of
 9 2005?

10 A. I don't -- I mean, it -- I
 11 went to several at the Holiday Inn, and
 12 like I said, I -- I know that, at some
 13 point in time, either before or after,
 14 that Charlie and his wife came up and --
 15 and asked me some questions because they
 16 were interested. The specifics, it just
 17 depends on what questions you ask.

18 Q. Okay. And did you -- did you
 19 give this informational session alone, or
 20 did you have one of the --

21 A. No, it was just me.

22 Q. Just you?

23 A. Yes.

Page 37

Page 39

1 Q. Okay. And, if you know, how
 2 many informational sessions have you
 3 given in Montgomery at the Holiday Inn?

4 A. Four to five.

5 Q. Okay. You said a moment ago
 6 that it's hard work being a contractor,
 7 but you have to have an entrepreneurial
 8 spirit, and there's a lot of money to be
 9 made.

10 A. Yes.

11 Q. If you know, what do the
 12 contractors doing Home Delivery in the
 13 Montgomery area generally make?

14 A. If somebody got me to the side
 15 and said, look, give me -- just give me a
 16 ballpark figure of what these guys make.
 17 I would tell somebody probably in the low
 18 50's, but I would also tell them that's
 19 gross. There are still expenses there
 20 to -- to -- that you got to pay. So, I
 21 mean, gross is probably -- for -- for the
 22 average, for a -- a contractor, is in the
 23 mid to low 50's.

1 A. Yes. Lease payments.

2 Q. Insurance?

3 A. They -- they deduct insurance,
 4 all those type of things.

5 Q. They deduct insurance?

6 A. Yeah, I think they have -- I
 7 think they -- they charge them like ten
 8 bucks a paycheck or something for some of
 9 the insurance that they pay. They have
 10 to have in -- we have liability
 11 insurance.

12 Q. On the person?

13 A. On the -- on the -- on the --
 14 on the van itself that -- that the
 15 company oversees for them. But
 16 there's -- when they're running it on the
 17 weekends by themselves, empty or to do
 18 another business, there's -- there's
 19 other insurance that they have to --
 20 to -- to pay for. And, again, this is
 21 one of those where I go I don't
 22 necessarily know the exact amount, but
 23 they do take out some insurance on -- on

Page 38

Page 40

1 Q. Okay. And --

2 A. And -- and, you know, what --
 3 and -- and I would have to -- you know,
 4 you'd have to look at it and see. If --
 5 if -- even if you wanted to -- I think
 6 the actual -- I don't even -- I don't
 7 even know if the actual example they give
 8 during some of these informational
 9 sessions give a gross figure. It may.
 10 It usually gives them just a -- an
 11 itemized look at how a contractor gets
 12 paid on stops and packages, but -- yeah,
 13 I -- I would tell them low to mid-50s.

14 Q. And that would be --

15 A. Gross.

16 Q. You got gross for --

17 A. One truck.

18 Q. One truck and one guy?

19 A. Yes.

20 Q. Okay. And then, his expenses
 21 would be his fuel, right?

22 A. Uh-huh.

23 Q. Yes?

1 these guys.

2 Q. Okay. Now, what -- that's
 3 insurance on the vehicle?

4 A. Correct.

5 Q. Okay. What about insurance on
 6 the person --

7 A. No.

8 Q. -- the contractor himself?

9 A. No.

10 Q. None is taken out by the --

11 A. Uh-huh.

12 Q. -- company?

13 A. (Shaking head negatively.)

14 Q. Okay. That's a no?

15 A. That's a no.

16 Q. Okay. All right. Regarding
 17 the Holiday Inn informational session
 18 that you gave in January of 2005, other
 19 than Charlie and his wife, Debbie, did
 20 anyone else contact you with an interest
 21 in becoming a contractor in the
 22 Montgomery area?

23 A. They run together, but to

Page 41

1 my -- to the best of my knowledge, there
 2 was one other gentleman there with his
 3 wife that -- I think was working for
 4 Coca-Cola at the time, and they -- I
 5 think it was this session.

6 Q. Okay.

7 A. He was very interested in
 8 doing it, running his own truck, and his
 9 wife was -- was -- was a little nervous
 10 about that kind of an investment, but,
 11 yeah, I -- I remember one other couple,
 12 and I'd have to look back and see. I'm
 13 sure we got, maybe, a temp or two out of
 14 the deal but not necessarily contractors.

15 Q. Okay.

16 A. Potential contractors.

17 Q. For giving the informational
 18 sessions for people who become interested
 19 in and, ultimately, get into the program,
 20 do you get any kind of compensation or
 21 commission for new contractors that are
 22 brought in?

23 A. Me, myself?

Page 41

1 regard to?

2 A. I think really coming in just
 3 to talk more seriously about it, get the
 4 application process going, kind of talk
 5 more in detail about what the job
 6 involved. At some point, and I -- I keep
 7 looking at Charlie. I think Joe kind of
 8 started helping him too. Joe McConnell
 9 was the -- the former ops guy in
 10 Birmingham --

11 Q. Yes.

12 A. -- trying to get him set up as
 13 quick as possible. We had a training
 14 session going on in Birmingham for
 15 potential contractors. I'm pretty
 16 sure --

17 MR. THORNTON: Can I --

18 MR. NELMS: No.

19 A. -- Charlie came -- came back
 20 and forth two or three times for the
 21 physical, and for the -- any additional
 22 paperwork that we had forgotten to get or
 23 didn't get or lost or whatever. So, I --

Page 42

1 Q. Yes.

2 A. Oh, no.

3 Q. Okay. Does the operation, the
 4 Montgomery operation, give any special
 5 credit for bringing in new contractors?

6 A. No.

7 Q. Okay.

8 A. There used to -- and I will
 9 say this: There used to be a referral
 10 program for other contractors to bring
 11 in, but I don't even know if they still
 12 have that.

13 Q. Okay. Other than that one day
 14 at the informational session, did you
 15 ever have any direct contact with Charlie
 16 Thornton at any other time?

17 A. Yeah.

18 Q. Okay. When did you next see
 19 him, then?

20 A. I don't remember.

21 Q. The best you can recall.

22 A. A week or two later.

23 Q. Okay. And what was that in

Page 41

Page 43

Page 42

1 I know I had two or three more times
 2 talking with -- with Charlie.

3 Q. Okay. And was that at your
 4 office?

5 A. Yes.

6 Q. Okay. Did his wife, Debbie,
 7 show up at that second --

8 A. I don't recollect.

9 Q. Okay.

10 A. I don't remember.

11 Q. Fair enough. And did he, on
 12 that day, fill out an application?

13 A. When he -- at the
 14 informational session or when he came to
 15 the facility?

16 Q. I guess we're talking about
 17 the second time you saw him, the time
 18 when he came to the facility?

19 A. At that time, it was
 20 automated, and I'd have to look and see,
 21 but I'm pretty sure we would have
 22 probably said, look, sit down here, and
 23 let's get this going. I know we had a

Page 41

Page 43

Page 42

Page 45

1 lot of problems early on when they
 2 automated that, as far as getting them
 3 to -- to do right, and we had numerous
 4 times where -- and probably Charlie could
 5 tell you, where he had to come back
 6 because something didn't get done right
 7 or whatever.

8 But, yeah, I would have
 9 probably that day said, you know, sit
 10 down, and let's get this process going so
 11 we can get physicals and background
 12 checks and set you up for -- for
 13 training.

14 Q. Okay. And you said the
 15 training was in Birmingham?

16 A. Birmingham, yeah.

17 Q. Okay. And describe the
 18 training for me.

19 A. It's a structured program,
 20 and -- and going into -- let me --
 21 there's two different types of training
 22 programs -- really three.

23 When we were going into

Page 47

1 to -- I mean, you obviously have to
 2 qualify.

3 MR. SPOTSWOOD: Okay.
 4 A. And when you drive, I mean --
 5 I think Charlie will pretty well tell
 6 you, that -- that the -- on -- on either
 7 side, but especially on the potential
 8 contractor side, they put them through an
 9 obstacle course forwards and backwards.
 10 And if, at any point in time, you knock
 11 over one or two, or I don't know what the
 12 magic number is, I mean, you're out of
 13 the program period. But there's --

14 Q. Let me interrupt you. So, in
 15 that respect, Bob's right, that's
 16 qualifying.

17 A. Correct.

18 Q. You know, if you're not
 19 physically able to move the packages --

20 A. Right.

21 Q. -- or even if you --

22 A. I think you -- I don't think.

23 I know. We -- we even, for -- for --

Page 46

1 Christmas, usually around September-ish,
 2 the company will say, okay, let's --
 3 we're going to set up a three-day
 4 training program for people that we know
 5 for a fact are just going to be potential
 6 temporary employees to get us through the
 7 holidays. And that can be a -- a -- a
 8 one or two-day session of just sitting
 9 there going over procedures and paperwork
 10 and, then, taking them out and doing a --
 11 a -- a -- a driving test and/or obstacle
 12 course, depending on how formalized it is
 13 for the temp employees, potential temp
 14 employees.

15 MR. SPOTSWOOD: Can I
 16 interrupt a second. This is terminology.
 17 This is a qualification procedure, is it
 18 not? That's what it's called, you have
 19 these driver qualification courses?
 20 You're using the terminology "training,"
 21 and I'm just -- is it --

22 A. Well, there -- there -- well,
 23 when you bring in a temp, you do have

Page 48

1 for -- for package handlers and people
 2 like that, we have a 50-pound lift test
 3 where we make sure they can -- can lift
 4 up to 50 pounds though.

5 Q. Right.

6 A. You -- you qualify for this.
 7 And the -- and the temps, it's -- it's a
 8 matter of bringing them in, doing --
 9 going over paperwork, routes, and many
 10 instances, we let them drive or ride with
 11 a contractor for a day or two, but it's
 12 kind of the type of person -- it -- it
 13 would be great if we could bring in
 14 people who would just be temp for six or
 15 eight months and really know the business
 16 and yet have the ability to give them a
 17 van. I mean, that's the perfect
 18 scenario.

19 Q. Right.

20 A. But for a known potential
 21 contractor that -- that we know really
 22 wants to get in the business, we think or
 23 we know that he's got the financial

Page 49

1 ability to go out and -- and purchase or
 2 lease a van and he's -- and he's really
 3 the type of person, we think from a
 4 business perspective, from a -- you know,
 5 those go through -- and that's the only
 6 thing you can go through, the eight-day
 7 qualification course or training course
 8 or whatever you want to call it, to
 9 become potentially a contractor.

10 Now, when they come out of
 11 that training program -- and let me be
 12 very clear about this --

13 Q. Yeah.

14 A. -- they don't necessarily have
 15 a contract waiting on them, okay?

16 Q. Right.

17 A. But they are -- they are --
 18 they are potential contractors that we
 19 know or -- in discussions with them, they
 20 want to get into the business. If a
 21 contract's available, we've already got
 22 something spotted for him or, in many
 23 instances, they just want to come out.

Page 50

1 They know they got to run for -- with
 2 a -- as a temp or run with another
 3 contractor. Now, some of these
 4 contractors can pay these guys to run
 5 other trucks for them.

6 Q. Right.

7 A. And in that particular
 8 instance, they're actually employed by
 9 the contractor.

10 Q. I want to ask you one question
 11 real quick, and then, if it's okay with
 12 everybody, we'll take a break.

13 A. Yeah.

14 Q. You said "automated system," a
 15 while ago, and I think I understand what
 16 you're saying, but I'm going to ask you
 17 to describe for me what you mean when you
 18 say "automated."

19 A. My experience, from 2001 up
 20 until this happened, was it was a lot of
 21 paperwork, just manual, okay?

22 Q. Handwritten on paper?

23 A. Handwritten on paper, then,

Page 49

Page 51

1 having to send all of these files to
 2 different people and, oops, well, you
 3 didn't do this, or I never got it or
 4 whatever. So, I'm pretty sure it was
 5 through PeopleSoft, FedEx contracted out
 6 for the whole company and set up a -- a
 7 PeopleSoft sys -- system where literally,
 8 from the time a person comes in, applies
 9 to become a dock worker or an independent
 10 contractor, whatever it may be, it
 11 captures his application, and there's
 12 different checkmarks along the way where
 13 you approve it, and then, it might send
 14 off for the -- the driver -- or
 15 the background check and the driving
 16 history and all that stuff. And, all
 17 along the way, there's different stages
 18 where a person has to come in and approve
 19 it, but it's all automated.

20 Q. Paperless?

21 A. Paperless.

22 Q. Okay.

23 A. Virtually paperless, other

Page 50

Page 52

1 than, like I said, the -- some of the
 2 stuff they have to sign. That starts the
 3 file.

4 Q. Okay. If it's all right with
 5 everybody, I need to take a break.

6 (Said deposition was in recess
 7 at 10:46 a.m. until 10:49
 8 a.m., after which the
 9 following occurred:)

10 Q. (BY MR. NELMS:) All right.
 11 We were talking about instances where you
 12 met with Charlie, and you've told us
 13 about the informational session, and
 14 then, you told us, several weeks later,
 15 he came back into your office, and you
 16 told us about that. Have you -- can you
 17 remember any other instance of meeting
 18 Charlie Thornton?

19 A. Truthfully, no. I mean,
 20 I'm -- I'm sure, at any given point in
 21 time when Charlie came into the office,
 22 he and I would talk about something. I
 23 mean, you know. What? Is this a trick

Page 53

1 question?

2 Q. No. Sometimes the question is
3 just a question, you know.

4 A. I -- I -- I know, from --
5 from -- from firsthand experience, that
6 our processing of paperwork, be it
7 automated or whatever, brought people
8 back many times to get something that we
9 failed to get the first time or the
10 second time or the third time, and I
11 can't see Charlie not walking through the
12 door and sticking his head in and us
13 talking about something, so --

14 Q. Were you having problems with
15 your automated system?

16 A. From a training perspective,
17 okay. In many instances, because we were
18 not hiring a lot of people at that time
19 and/or processing a lot of drivers at
20 that time, it was an ongoing learning
21 experience for us, as far as making sure
22 everything was done correctly.

23 Q. Okay.

Page 55

1 A. Right.

2 Q. -- question seems silly or
3 not -- when you say you had a "checklist"
4 of things you had to do, what are you
5 referring to specifically?

6 A. Well, there -- there -- when
7 you called up the system, as I remember
8 it, okay, it still pretty well mirrored
9 our hiring checklist for paperwork
10 needed, okay, for an independent
11 contractor or temp or whatever. But
12 because it was now on a screen versus
13 that checklist sitting there that you had
14 in the folder when you first started that
15 and you were just checking it off as you
16 went along, in many instances, or in some
17 instances, you would get, oh, man, I
18 forgot to do that. And then, you'd have
19 to call up whoever and say, you know,
20 what, I forgot to get this from you. The
21 next time you're close by, could you come
22 by and sign this?

23 Q. I got you. I'm going to ask

Page 54

1 A. So, to say were we having
2 trouble with the system as a -- as a
3 company, they'd have to answer that. We
4 in Montgomery, trying to make sure we did
5 everything since we had not done it a
6 lot, sure, I'm -- we -- we at times,
7 probably didn't -- didn't do things
8 correctly or had to get him to come back
9 to get -- you still -- trust me, you
10 still had a checklist of forms that you
11 had to have before you could move
12 forward.

13 So, if you want to say, did we
14 have problems, yeah. It meant people
15 having to come back, you know, a second,
16 third and fourth time to -- to get what
17 we didn't get the -- the last time they
18 were there.

19 Q. I think I completely
20 understand what you're saying --

21 A. Right.

22 Q. -- but sometimes I've got to
23 make a record. So, if a --

Page 56

1 you a couple of little, quick specific
2 questions, and then, I think I'm
3 finished. Who -- at what point during
4 this process would the decision be made
5 to issue uniforms to a potential
6 contractor?

7 A. I don't think anybody ever
8 came through the door that was going to
9 drive for us that we didn't give them --
10 give them some uniforms to start out
11 because, if they were going to drive as a
12 temp, ride on a truck, anything
13 pertaining to delivering packages out
14 there in the public that we kept -- tried
15 to keep caps and shirts and -- not pants
16 because we never knew what their waist
17 size was. Now, to -- to purchase a
18 uniform, I know this is going to sound
19 stupid, but at any given point in time,
20 as long as we knew he was driving, he
21 could come in and request us to order him
22 some uniforms any time he wanted to.

23 Q. Okay. Are there -- was the

Page 57

Page 59

1 Montgomery facility in contact with the
 2 drivers by radio?

3 A. Cell phones, if they had one.

4 Q. Okay.

5 A. Going to sound silly to you,
 6 but as an independent contractor, over
 7 time they found out they had to have some
 8 form of communication, but they could go
 9 out there and deliver all day long, and
 10 as long as they were getting their
 11 packages delivered and everybody was
 12 happy, they really didn't have to say one
 13 thing to us or -- or talk to us.

14 Q. Okay. I -- I know from
 15 experience because our FedEx guy comes in
 16 here every day. He's got a computer
 17 wand.

18 A. They've got -- they've got --
 19 yes, now -- now, when you talk about
 20 communication, they have scanners that
 21 record every -- he does his bar code
 22 scan, and -- and in that bar code, it's
 23 got the -- the time -- it's

1 A. Star II, Roman numeral one,
 2 one.

3 Q. Were the Star II scanners
 4 specifically assigned to the independent
 5 contractors?

6 A. Specifically assigned?

7 Q. Well, I know it's not a good
 8 question. What do you mean by that? I
 9 don't know.

10 An independent contractor, did
 11 he have one Star II scanner assigned to
 12 him that he kept with him at all times?

13 A. We -- they all wanted to keep
 14 their same scanner, let me put it that
 15 way. And, in many instance, we would
 16 type a name or -- or a tape that we would
 17 put on there so they knew, when they
 18 walked in in the morning, that that was
 19 the scanner that they used the day
 20 before. And for the main reason of that
 21 most of those scanners would hold that
 22 data from the previous day so that when
 23 they started up that day, it would call

Page 58

Page 60

1 automatically -- it -- it shows the time,
 2 obviously, the date. Within the bar
 3 code, it shows the address of the
 4 package. Shows how many packages he
 5 delivered. We had over -- we had
 6 overview within our system to see how
 7 that driver was doing during the day, but
 8 we had no means of communication at that
 9 time, and I don't know if it's changed,
 10 where we could ever even send them
 11 anything. You know, I think in the
 12 future, they were talking about trying to
 13 get that ability to -- to -- through
 14 radio frequency be able to communicate
 15 with them through those scanners.

16 Q. So, it's a one-way
 17 communication?

18 A. Yeah.

19 Q. Okay. Were -- what do you
 20 call those?

21 A. I think they were called Star
 22 II scanners.

23 Q. Okay.

1 up ending mileage and that type of stuff.

2 So, I guess to a certain
 3 degree, yeah, they were assigned a
 4 scanner, and they actually paid a -- a
 5 weekly charge for the use of those
 6 scanners. As a contractor, independent
 7 contractor. Now, temps were a whole
 8 different ball game. They would -- they
 9 would get whatever was left over,
 10 unfortunately.

11 Q. So, a temp is actually an
 12 employee and not an independent
 13 contractor?

14 A. Correct. We're paying him.

15 Q. Is it on the hourly rate or --

16 A. Uh-huh, yeah, FedEx. I
 17 done -- I done forgot what the hourly
 18 rate was, but they got paid by the hour.

19 Q. Okay. In regard to the trucks
 20 that contractors would have, do you know
 21 what process the contractor would have to
 22 go through in order to obtain a FedEx
 23 truck?

CHARLIE THORNTON
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT
April 12, 2006

Page 61

Page 63

1 A. In most instances, the way I
 2 tried to at times talk with -- with -- I
 3 would say it's really nothing more
 4 than -- you could go to your local bank.
 5 You could go to your local loan shark,
 6 whatever it may be, because all you were
 7 doing was -- was leasing a vehicle or
 8 purchasing a vehicle.

9 We had, to my knowledge,
 10 either two or three lending or leasing
 11 companies that we recommended because, in
 12 many instances, they would -- they would
 13 take inventory. FedEx would purchase it
 14 so that they had X amount of vehicles
 15 every year available for new -- new
 16 contractors coming on board, and these
 17 lenders or leasing companies would have
 18 visibility to that inventory, and in many
 19 instances, it was already with the FedEx
 20 decal spec'd exactly the way -- or in
 21 most instances, the way FedEx would want
 22 the truck to be spec'd.

23 And so, we would recommend or

1 Q. Okay. Sorry. I know
 2 that's --

3 A. I know.

4 Q. -- a very particular -- I
 5 don't think I could do it either.

6 All right. Is there a
 7 particular procedure within FedEx that
 8 assigns or allows a potential contractor
 9 to purchase a vehicle?

10 A. Can you be a little --

11 Q. Is there an authorization
 12 process that a contractor has to go
 13 through in order to obtain a vehicle?

14 A. For FedEx itself?

15 Q. Yeah.

16 A. It -- yeah. I mean, along the
 17 way, you -- you would -- yes, there is a
 18 process that he has to go through.

19 Q. Describe that process for me.

20 A. Well, at any given point in
 21 time, you know, especially early on,
 22 when -- when you're talking to a
 23 contractor or a potential contractor and

Page 62

Page 64

1 tell them that there was two or three
 2 different companies they could go through
 3 to qualify for these vans, but that, at
 4 any given time if they located -- or in
 5 talking with them wanted to purchase a
 6 van with their own -- own private lender
 7 or personal, you know, they had the
 8 option to do that.

9 Q. Okay. Were -- were the
 10 vans -- if you know, were the vans or the
 11 trucks always -- was the contractor
 12 required to buy it through Federal
 13 Express, though? Did the truck, itself,
 14 have to come from Federal Express?

15 A. No.

16 Q. Okay. So, a guy could go to
 17 the local Dodge dealership and pick up --

18 A. Yes.

19 Q. -- a truck that met Federal
 20 Express specifications?

21 A. Uh-huh.

22 Q. Yes?

23 A. Yes.

1 you -- and you give him the -- the
 2 information on him having to go out and
 3 buy or lease a vehicle, number one, at
 4 any given point in time, he can contact
 5 very early on to see what the costs are,
 6 does he qualify creditwise, you know, as
 7 far as that's concerned.

8 The assignment of a vehicle to
 9 a new contractor is supposed to come at
 10 the time the contract is officially
 11 signed, and he is, that day, a
 12 contractor, and then, that -- that
 13 vehicle, in a perfect world, is
 14 released -- it's either on-site, or it's
 15 released from wherever it's being held
 16 and delivered to the local facility where
 17 that contractor is.

18 I don't know if that's giving
 19 you the information you want or if --

20 Q. I don't know what the answer
 21 is, to be honest with you. All right.

22 A. I mean, a guy could go out --
 23 I mean, we -- you know, a guy could go

16 (Pages 61 to 64)

Page 65

1 out, and like you said, he could buy a --
 2 -- a-- what I call a straight truck.
 3 It's got a box on the rear of it in --
 4 in -- instead of a FedEx step van, and --
 5 but if he was going to do it, he knows
 6 that he's got to make sure that -- and
 7 we'll give him a copy of what the specs
 8 are and what it must have on it and
 9 what -- within -- you know, they don't
 10 have to absolutely buy a brand-new one.
 11 They can buy one that's two, three, four
 12 years old. I think, at one point, it
 13 used to be newer than five years old, but
 14 then, he's got to do all the decals.
 15 He's got to do all those things. But
 16 yeah, he could -- he could walk in and
 17 go, I'm just going to go buy me a van
 18 right now just in case. And -- but he's
 19 on his own, when he does that, you know.
 20 I mean -- it's kind of two different
 21 scenarios I'm trying to give you there.

22 Q. No, I understand. I
 23 understand. Other than what we've

Page 67

1 A. No, I -- I've -- I graduated
 2 from Tennessee, and I grad -- and I -- I
 3 was -- I majored in transportation
 4 logistics, and kind of part of retirement
 5 was just, you know, to do my own thing.
 6 So, I'm -- I'm a third-party logistics
 7 consultant right now for a couple of
 8 companies, and if y'all happen to know
 9 anybody that's got the money, I got the
 10 time.

11 Q. I actually did know him. I'll
 12 think about that.

13 MR. NELMS: I can't think of
 14 anything else, Bob, but if you'll let me
 15 talk to Charlie for just a minute -- or
 16 you can go ahead and ask him, and then,
 17 I'll talk to Charlie in a minute, and if
 18 I have something else, I'll follow up
 19 with it, but I can't think of anything --

20 MR. SPOTSWOOD: Why don't you
 21 figure out if there's anything else you
 22 want to ask --

23 MR. NELMS: Okay.

Page 66

1 already talked about today in this
 2 deposition, and don't tell me about any
 3 conversations, please, that you've had
 4 with Mr. Spotswood or anyone with his
 5 office --

6 A. Yes.

7 Q. -- have you had any
 8 conversations with anyone at FedEx
 9 regarding this lawsuit?

10 A. No.

11 Q. Okay. And you are
 12 currently -- consider yourself not an
 13 employee of FedEx, is that correct?

14 A. Correct.

15 Q. Okay.

16 A. I'm retired.

17 Q. Okay. What are you doing with
 18 yourself? You're too young to be
 19 retired.

20 A. I'm -- I told Bob I'm a
 21 consultant. By the way, you'll get my
 22 bill.

23 Q. You send it on.

Page 68

1 MR. SPOTSWOOD: -- and then,
 2 I'll go ahead and ask a few questions
 3 while -- after you come back and let me
 4 know if you've got anything else.

5 MR. NELMS: Okay. Great.
 6 Come on, Charlie. Let's talk just a
 7 second.

8 (Said deposition was in recess
 9 at 11:03 a.m. until 11:11
 10 a.m., after which the
 11 following occurred:)

12 MR. NELMS: I don't have
 13 anything else.

14 EXAMINATION BY MR. SPOTSWOOD:

15 Q. All right. Let me ask a few
 16 questions here.

17 Mr. Trott, is it correct that
 18 FedEx Ground and FedEx Home Delivery are
 19 operating divisions of the Defendant in
 20 the case, FedEx Ground Package Systems,
 21 Inc.? In other words, they are
 22 functioning, operating divisions within
 23

Page 69

Page 71

1 the same --

2 A. Yes.

3 Q. -- corporate entity?

4 A. Yes.

5 Q. Okay. And for a period there,
6 were you -- I took it, from your prior
7 testimony, that you were acting as senior
8 manager in Montgomery for both the FedEx
9 Ground operations and the FedEx Home
10 Delivery operations during this
11 transition period between Mr. McConnell
12 and when Kent Gastineau came?

13 A. That would be true.

14 Q. Okay. And you -- you couldn't
15 remember Kent's last name. It's
16 Gastineau.

17 A. All right.

18 Q. You said you retired from
19 FedEx in March of 2005. Were you
20 actually working during that last couple
21 of weeks of March, or were you taking
22 vacation?

23 A. I actually took -- yeah, I

1 Q. What do you recall about
2 telling him?

3 A. I know we were having a lot of
4 problems at that time with some of the
5 routes, like I said. And -- and if
6 Charlie and/or his wife came up to me
7 after the meeting, and I'm sure -- I -- I
8 know they did because I do remember
9 talking with them. I know we had Troy
10 contract wide-open at that time, and
11 probably we discussed that contract being
12 open.

13 Q. Okay.

14 A. And then, I would have, if he
15 asked me, any other areas, I probably
16 would have said with growth, the Wetumpka
17 area or that Elmore County area, Autauga
18 County with growth. We might potentially
19 have some growth opportunities coming up,
20 and -- and since I really and truthfully
21 was kind of being off-the-cuff, I
22 probably -- might have told him we were
23 having some problems with a contractor in

Page 70

Page 72

1 think the official date had to change a
2 couple of times. I actually took my last
3 four weeks or five weeks on vacation,
4 so -- now, during March, no, I would not
5 have been there. I think the actual
6 retirement day is like the 1st of April
7 or 7th of April, if you looked at my
8 actual retirement date because I was on
9 vacation.

10 Q. So, you would not --

11 A. I was virtually --

12 Q. -- have been --

13 A. I was virtually --

14 Q. -- at the facility during
15 March?

16 A. I was not even there during
17 March.

18 Q. Okay. At the informational
19 session that we've been talking about,
20 did you talk to Mr. Thornton about what
21 routes might or would be available at
22 that time?

23 A. Yes.

1 Autauga County or Elmore County that
2 could lead to something coming open,
3 but -- I mean, I'd -- I'd done it enough
4 with Ground to know that you stick to --
5 you stick to what's open, and then, with
6 growth and attrition, there's always
7 opportunities there.

8 And I -- and I -- and like I
9 said, I -- I don't remember verbatim
10 everything, but I just remember that he
11 and his wife were very open and nice, and
12 we were just talking about potential for
13 the future.

14 Q. Did you believe to be true
15 everything that you did tell Mr.
16 Thornton?

17 A. Yes.

18 Q. Did you have any intent to
19 injure him or mislead him in any way?

20 A. No.

21 Q. Did you ever tell Mr. Thornton
22 that he, in fact, would get and would be
23 entitled to a route with -- a route

CHARLIE THORNTON
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT
April 12, 2006

Page 73

Page 75

1 contract?

2 A. No.

3 Q. I want to show you Exhibit --
4 we labeled these letters, and these are
5 just continuations of exhibits that are
6 in -- they actually are the exhibits from
7 Mr. Thornton's deposition. This one's
8 marked Defendant's Exhibit V as in
9 Victor. Can you tell me what that is?

10 A. Well, it's -- it's the P & D
11 Contractor Business Guide which, in many
12 instances, are issued to the managers.
13 It's a working guide we have within the
14 office, and I think -- I'm going to be
15 honest with you. I don't know -- I don't
16 know if they give them a copy of this at
17 their actual training, but it's kind of
18 the contract itself that -- that kind of
19 leads them to learn and know and
20 understand what the -- what all is
21 entailed in their contract.

22 Q. The potential contract?

23 A. Yeah, potential contracts.

1 under the new automated process, you were
2 always told, and I agreed -- and I agree
3 this was a no-brainer that you -- when
4 you printed it out, your -- it was very
5 smart to make a copy of it and have them
6 go home and at least review it for 24 to
7 4 -- depending upon how big a hurry they
8 were in, 24 to 48 hours, so that, when
9 they came back in, you -- you know, they
10 could ask specific questions as to what
11 this particular area of the contract
12 meant before they signed it.

13 And that was -- I would have
14 to say that's not something I came up
15 with. In most instances, all managers,
16 as -- might even have been on the
17 checklist. You -- you had to check off,
18 and I'm doing it from memory, that you
19 had -- you know, had sat down and
20 reviewed the contract with that
21 individual contractor prior to him
22 signing it.

23 Q. Okay. I've just got a couple

Page 74

Page 76

1 And -- and -- and -- and I will tell you
2 this, whether -- well, nevermind.

3 Q. Well, what -- what is the
4 procedure that was generally followed by
5 you with respect to educating a potential
6 contractor about this document?

7 A. When it actually came time,
8 and -- and -- and I will say this, and
9 you guys will have to ask Charlie this.
10 Usually, during the training session,
11 there was a day where they talked, and I
12 don't know how long it was, but they
13 talked about the contract itself and how
14 it worked and specific items and --
15 and --

16 Q. Right.

17 A. -- the ins and outs of how a
18 contract worked for an independent
19 contractor.

20 But, in what instances I had
21 where new contractors -- and there wasn't
22 a lot of them that came on board with
23 Ground, under the old process and/or

1 of documents I want to see if you can
2 authenticate for me. These are from
3 Defendant's Exhibit C to Mr. Thornton's
4 deposition. The first one is labeled FXG
5 0000-13. Can you tell me what this is?

6 A. That would have -- that is one
7 of the forms that we had them fill out
8 that has to be for DOT purposes, part of
9 their file for --

10 Q. And is this for Charlie?

11 A. Yeah.

12 Q. And it's called Driver's
13 Annual Certification Motor Vehicle
14 Violations?

15 A. That was -- that -- that
16 initiates or goes in their file, and
17 really, it's done every year. They have
18 to fill it out. And that's where I was
19 talking about having to report any
20 potential violations on their personal
21 vehicle and/or their FedEx vehicle. And,
22 in this particular instance, since
23 they're applying for a job, he would

CHARLIE THORNTON
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT
April 12, 2006

Page 77

Page 79

1 still supposedly have to report all of
2 his personal violations.

3 Q. All right. And did you sign
4 this on the bottom?

5 A. That would be me.

6 Q. And on what date did you sign
7 it?

8 A. 1/14 of '05.

9 Q. Okay.

10 A. Just as information, that's
11 that checklist where, if you didn't dot
12 your I's and cross your T's, you might
13 refer back to it and have to get them
14 back in to do stuff.

15 Q. You're referring to --

16 A. And I don't know if this is
17 computer-generated or whether it's
18 something we -- you know, it looks like
19 this one's typed out.

20 Q. I think it's
21 computer-generated.

22 A. Right.

23 Q. What you're referring to is

1 Thornton, obviously?

2 A. Right.

3 Q. What is Document 29
4 specifically?

5 A. That's a card apparently they
6 issued to him showing that he is -- he's
7 been certified, and he passed his road
8 test.

9 Q. Okay.

10 A. Part of their training, Smith
11 systems.

12 MR. NELMS: And that's
13 Document 30.

14 Q. Document 30 is -- this is
15 called on the top of it Advanced Driving
16 Training Safety Seminar. This is the
17 classroom or the several day
18 qualification program that you described
19 previously?

20 A. Correct, and if I'm not
21 mistaken, you can ask Charlie, if they do
22 not pass that, they don't move forward in
23 the training. That looks like the same

Page 78

Page 80

1 FXG, a bunch of zeros --

2 A. Right.

3 Q. -- 22?

4 A. And, as it carried you through
5 the process, you can see these are little
6 Xs or dots.

7 Q. Right.

8 A. And you really -- until you
9 got to the end, you couldn't do anything,
10 until you had done every -- you know.

11 Q. Right. Okay. Let me flip
12 over here to pages 27 and 28. Can you
13 tell me what those two pages are?

14 A. That is a record of road test
15 that was given apparently in Birmingham
16 by Omar Newman where they went through
17 the -- I don't know if they issued this
18 after they went through the hazardous --
19 hazardous -- through the driving course
20 or whether they actually went out and did
21 a road test with them, but --

22 Q. Okay. And then, what is the
23 document here, exhibit -- this is for Mr.

1 thing.

2 Q. Right. Document 31 appears to
3 be the same thing as Document 30.
4 Document 32 --

5 A. That's a different form.

6 Q. That's -- that says -- that's
7 a certificate for the on-road format
8 apparently for this seminar?

9 A. (Nodding head affirmatively.)

10 MR. NELMS: You're referring
11 to 32?

12 MR. SPOTSWOOD: Yeah,
13 Exhibit 32. Correct?

14 A. Yes. Strength test.

15 Q. Right.

16 MR. NELMS: 34.

17 (Off-the-record discussion.)

18 MR. SPOTSWOOD: That's all I
19 have.

20 MR. NELMS: Okay.

21 FURTHER THE DEPONENT SAITH NOT

CHARLIE THORNTON
FEDEX GROUND PACKAGE SYSTEM

STAN TROTT
April 12, 2006

Page 81

1 (Said deposition was concluded
2 at 11:23 a.m. on the 12th day
3 of April, 2006.)
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Page 82

1 C E R T I F I C A T E
2
3
4 STATE OF ALABAMA)
5 JEFFERSON COUNTY)
6
7 I hereby certify that the
8 above and foregoing deposition was taken
9 down by me in stenotypy, and the
10 questions and answers thereto were
11 reduced to typewriting under my
12 supervision, and that the foregoing
13 represents a true and correct transcript
14 of the deposition given by said witness
15 upon said hearing.
16 I further certify that I am
17 neither of counsel nor of kin to the
18 parties to the action, nor am I in
19 anywise interested in the result of said
20 cause.
21
22
23 COMMISSIONER - NOTARY PUBLIC